

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Jul 10, 2025

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

ANDREW ERICKSON, a married
man, and CRAIG BELFIELD, a
married man,

Plaintiffs,

v.

ENVIRO TECH CHEMICAL
SERVICES, INC., a California
Corporation, d/b/a OrganiClean,

Defendant.

No. 1:23-CV-03118-MKD

ORDER GRANTING CONSTRUED
UNOPPOSED MOTION TO
AMEND SECOND AMENDED
COMPLAINT TO WITHDRAW
TRADEMARK CLAIMS

ECF No. 74

Before the Court is Plaintiffs' Motion for Voluntary Dismissal of Specific Claims Pursuant to Fed. R. Civ. P. 41(a)(1)(B), ECF No. 74. Plaintiffs seek dismissal without prejudice, and without an award of fees and costs to either party, of their Lanham Act, trademark infringement, and Washington Consumer Protection Act claims. The Court directed further briefing on this Motion to determine whether there was a proper legal basis to grant it. ECF No. 89.

1 Defendant filed supplemental briefing confirming that it does not oppose the
2 dismissal of these claims. ECF No. 90. As such, the Court construes the Motion
3 as an unopposed motion to amend the Second Amended Complaint by
4 withdrawing the Lanham Act, trademark infringement, and Washington Consumer
5 Protection Act claims, and grants it. *See Hells Canyon Preservation Council v.*
6 *U.S. Forest Service*, 403 F.3d 683, 690 (9th Cir. 2005) (construing the plaintiff's
7 unopposed "withdrawal" of a claim as a Fed. R. Civ. P. 15(a) amendment of the
8 complaint). This matter proceeds on the remaining claims pleaded in the Second
9 Amended Complaint: (1) breach of contract, (2) breach of fiduciary duty,
10 (3) unjust enrichment, and (4) accounting, ECF No. 17, and Defendant's
11 conditional counterclaims for (1) breach of contract and (2) unjust enrichment, as
12 pleaded in response to the Second Amended Complaint, ECF No. 20.

13 Accordingly, **IT IS HEREBY ORDERED:**

14 1. Plaintiffs' construed Unopposed Motion to Amend to Withdraw
15 Trademark Claims, **ECF No. 74**, is **GRANTED**.

16 2. Plaintiffs' Lanham Act, trademark infringement, and Washington
17 Consumer Protection Act claims are **DISMISSED without prejudice**.
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1 **IT IS SO ORDERED.** The District Court Executive is directed to enter this
2 Order and provide copies to the parties.

3 DATED July 10, 2025.

4 s/Mary K. Dimke
5 MARY K. DIMKE
6 UNITED STATES DISTRICT JUDGE
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